

## **RELIEF FROM AUTOMATIC AND CODEBTOR STAY PROCEDURES**

1. **Filing Fee and Motion** - The moving party must pay the filing fee if the motion is for relief from the stay of 11 USC §362(a), AND file a written motion EITHER: (i) IF it relates to DEBTOR relief in a Ch. 7 or 13, by using ONLY the COURT'S "FILLABLE" PDF VERSION of [Local Form #720.80](#); OR, but only if pt. 1.(i) does not apply, (ii) by preparing a unique motion which states:
  - a. The present balance owing to the moving party excluding any precomputed interest or other unearned charges;
  - b. The date upon which the debt was incurred;
  - c. Whether the moving party holds a security interest or lien upon the debtor's property;
  - d. The nature of the security interest or lien, the date upon which the security interest or lien was obtained, and if applicable, the date upon which the security interest or lien was perfected;
  - e. A description of the collateral sufficient for identification (e.g., street address);
  - f. The fair market value of the collateral;
  - g. A description of, and the amounts due upon, any other security interest or liens which have priority over that of the moving party;
  - h. Whether the debtor is in default and, if so, the number of defaulted installments and the total sums in default;
  - i. The subsection of §362(d) under which relief is requested; AND
  - j. Any other facts which are relevant in determining whether relief should be granted.
2. **Notice of Motion** - The moving party must choose between, and completely fill out, the CURRENT version of the appropriate Notice of Motion:
  - a. For Chapter 7 & 13 cases INCLUDING Chapter **13** CODEBTOR stay - Use [Local Form #720](#);
  - b. For Chapter 11 & 12 cases - Use [Local Form #1124](#) [NOTE: LOCAL FORM #1124 REQUIRES THAT YOU OBTAIN THE DATE, TIME AND LOCATION OF HEARING FROM THE COURT *BEFORE* SERVICE!];
  - OR c. For Chapter **12** CODEBTOR relief - In Ch. **12**. cases use [Local Form #1220](#).
3. **Service of Motion AND of Notice of Motion** - The moving party must SIMULTANEOUSLY serve copies of BOTH: (a) the motion AND (b) the appropriate Notice of Motion (WITH [Local Form #721](#) attached if a Ch. 7 or 13 case, OR [Local Form #1220.5](#) if Ch. **12** CODEBTOR relief sought to ALL parties named in the certificate of service on the form).

### **IN CHAPTER 11 & 12 CASES THIS SERVICE MUST BE MADE WITHIN 2 BUSINESS DAYS OF OBTAINING A HEARING DATE (EXCEPT IF CH. 12 CODEBTOR relief is sought)!**

4. **Filing of Motion AND Notice with Clerk's Office** - The moving party must, on the same date as copies are served per pt. 3, mail to, or directly file with, the Clerk of Court BOTH: (a) the completely filled out original Notice of Motion, AND (b) the proper form of the ORIGINAL Motion per pt. 1.
5. **Response AND Notice of Hearing** - TO RESIST the motion a PARTY MUST, WITHIN 14 DAYS OF the Notice of Motion's SERVICE date, FILE BOTH a written RESPONSE PREPARED PER PT. 6, AND EITHER:
  - a. (ONLY Chapter 7 & 13 cases, INCLUDING re Chapter 13 CODEBTOR) - A fully completed Notice of Hearing (using the CURRENT version of [Local Form #721](#)) stating the date and time of the hearing [THIS INFORMATION MUST BE CALCULATED USING information from point II. in the moving party's Notice of Motion ([Local Form #720](#))];
  - b. (ONLY Chapter 11 & 12 cases) - A separate certificate showing the date the moving party's Response copy was served;
  - OR c. (ONLY Chapter 12 CODEBTOR relief) - A fully completed Notice of Hearing stating the date, time and location of the hearing using either the CURRENT version of [Local Form #1220.5](#) in a Ch. 12 Case, OR [#1320.5](#) in a Ch. 13 Case [NOTE: THE NOTICE MUST BE SERVED WITHIN 2 DAYS OF OBTAINING IT FROM THE COURT!].
6. **Form and Content of Response/Objection** - It must state the specific facts upon which the motion is resisted, and include the specific facts EITHER:
  - a. (If resisting DEBTOR relief in only a Ch. 7 or 13 case, INCLUDING Chapter 13 CODEBTOR relief) - In the applicable "RESPONSE" portions on a copy of the ORIGINAL Motion [NOTE: If the Response will be electronically filed, the RESPONSE MUST BE PREPARED USING the "FILLABLE" PDF version of the ORIGINAL Motion unless BOTH the Motion was filed on paper AND it could NOT be otherwise electronically obtained from the movant].
  - OR b. (Any other Response) - On a SEPARATE document.
7. **Failure to Respond/Object OR Serve Notice of Hearing** - If neither a timely Response NOR, if applicable, a Notice of Hearing are filed, then either: (a) the Court may sign an ex parte order, submitted by the moving party, granting the relief; OR (b) the automatic stay will either (i) expire 30 days after the motion was filed [per 11 USC §362(e)], or (ii) expire 20 days after a motion for CODEBTOR relief is filed in chapter 12 & 13 cases [per 11 USC §1201(d) & §1301(d)].
8. **Orders/Stipulations** - If necessary, a proposed Order for relief from Debtor stay in Ch. 7 and 12 cases, AND for BOTH Debtor AND Codebtor relief in Ch. 13 cases, must be submitted using [Local Form #720.90](#) (Order Re: Relief from Stay).